

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 16,361
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating her ANFC benefits because she no longer has an eligible child in her home.

FINDINGS OF FACT

1. The petitioner is a single mother with two children. Her older child is a seventeen-year-old high school student who will graduate next year. He has recently left her home and is renting an apartment from a friend of his father. He earns his own money and the petitioner does not expect him to return to her home.

2. The petitioner's younger child is fourteen years old and has been in the custody of SRS for about a year. She lives with her grandmother who receives foster care payments for her from SRS. The child spends weekends and school vacations with her mother. There is a plan in place to return the child to her mother but it is not certain when that will

occur although the petitioner hopes that it may be as soon as this June.

3. The petitioner had been receiving ANFC on behalf of herself and her son. When her son moved out of the house, the Department notified her that her ANFC grant would end because there were no children left in her home.

4. The petitioner appealed that decision because she believes her daughter will be returning home soon and she needs to maintain a home for her.

ORDER

The decision of the Department is affirmed.

REASONS

ANFC program regulations require that an ANFC assistance group must include one or more "eligible" dependent children. WAM 2242. "An eligible child is defined as an individual who meets all ANFC criteria of need, age, residence, and deprivation of parental support." WAM 2242.1 A parent can only be eligible to receive benefits if he or she "lives in the same household with one or more eligible . . . children." WAM § 2242.2.

It may be possible that either of the petitioner's children is a child who is "eligible" to receive benefits. However, the petitioner herself is not eligible for benefits unless at least one of those children lives with her. The facts show that neither of these children lives with her at present, and her son is likely not to return to her home. The only issue is whether the petitioner can continue to receive ANFC benefits when her younger child is "temporarily" out of her home.

The regulations do provide for the continuation of benefits when members of a family are separated for more than thirty days if the following conditions are met:

. . .

1. The recipient relative or caretaker . . . continues or supervises continuing care and supervision of eligible child(ren); and
2. A home is maintained for the child(ren) or for return of the recipient relative or caretaker within six months; and
3. Eligible family members have continuing financial need.

. . .

WAM 2224

The facts show that the petitioner cannot meet either of the first two conditions. Although the petitioner does

provide care and supervision for her daughter on occasion, she does so with the permission of SRS. The petitioner has lost legal custody of her daughter and as such does not have the right to supervise the continuing care of her child. That right has been transferred by the Court to SRS who has currently given the right to care for and supervise the child on a daily basis to her grandmother. It is SRS, not the petitioner, who has the right to direct the grandmother and to rescind physical custody of the child if it so chooses. It cannot be found that the petitioner meets the first criterion of continuing to care for and supervise the child during her separation from the family.

The second criterion provides that payments can be continued so long as the child is expected to return in six months. That is not the case here as the child has already been separated from the family for at least a year. Her return date is not certain and is contingent upon many factors.

As the child does not live with the petitioner, as she does not have the right to continue to care for or supervise the child, and as the child has been out of the household for over a year with no definite date of return, the Department was correct in concluding that the petitioner is no longer

eligible for an ANFC grant. Its decision must, therefore, be upheld by the Board.

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